IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1114 OF 2007

Shri Ganesh Kashinath Gawade ...Applicant.

Versus

The State of Maharashtra ...Respondent.

....

Mr.B.R.Patil i/b. Mr.S.P.Kadam, Adv. for the Applicant.
Mr.V.B.Konde-Deshmukh, APP, for the State.

....

CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 16th April, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned APP for the State.

2. The applicant is seeking bail in C.R.No.368 of 2006 of Bhosari Police Station. The said case is mainly under Section 302 of IPC.

3. It is the prosecution case that the present applicant along with others committed the murder of one Chandrakant Gawade and one Sagar Shendkar. In addition thereto, in the said incident one Shivaji Jadhav and one Chhaya Pawar were assaulted

by the present applicant and the coaccused. Shivaji Jadhav has stated that the applicant was armed with bat at the time of the incident and the applicant along with others assaulted him, his wife and one Chhaya Pawar. This witness has specifically stated that the applicant was armed with bat and he assaulted this witness, his wife and Chhaya Pawar with the said bat. Shivaji Jadhav has sustained nine injuries in the said incident. So also, Chhaya Pawar has sustained nine injuries in the said incident.

4. Mr.Patil the learned Advocate for the applicant submitted that as far as injuries sustained by Chhaya Pawar and Shivaji Jadhav are concerned, their injuries are not serious in nature. The cause of injury relating to Chhaya Pawar and Shivaji Jadhav is by hard and blunt object which is consistent with attack by bat. However, it is pertinent to note that the prosecution case is that the applicant along with others assaulted not only Shivaji and Chhaya but also deceased Chandrakant. In respect of assault on deceased Chandrakant the complainant has stated that the applicant along with others caught hold

of Chandrakant and brought him on the road. Thereafter all of them which includes the applicant assaulted him. At that time coaccused Popat Landge stabbed Chandrakant with sword in his stomach. When Chandrakant fell down, one of other accused Pintya Landge assaulted Chandrakant on the head. The complainant has stated that thereafter, Chandrakant was dragged to the side of the road. Thereafter, the accused persons poured petrol on the body of Chandrakant and set him on fire. The complainant has also stated that prior to this assault on Chandrakant the same eight to ten persons including the present applicant had assaulted one other person. The complainant has named the present applicant as being one of the said persons. He has further submitted that all of them were shouting "cut, kill". This shows the common intention on the part of the applicant.

5. Looking to the fact that the complainant and witness Shivaji Jadhav have implicated the applicant as stated above, I do not think that this is a fit case to grant bail to the applicant. Application is rejected.

(SMT.V.K.TAHILRAMANI,J.)